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2 UNITED STATES DISTRICT COURT

3 FOR THE NORTHERN DISTRICT OF CALIFORNIA

4 OAKLAND DIVISION

5 ROB DELSMAN,

6 Plaintiff,

7 vs.

8 GENERAL ELECTRIC COMPANY,

9 Defendant.

Case No: C 09-2414 SBA

10 **ORDER DIRECTING PLAINTIFF  
TO FILE RESPONSE TO  
DEFENDANT'S MOTION TO  
DISMISS**

11 Dkt. 39

12 On October 28, 2011, Defendant General Electric Company filed a Motion to  
13 Dismiss Plaintiff's Complaint for Failure to Prosecute, or, Alternatively, to Stay Litigation.  
14 Dkt. 39. The motion is noticed for hearing on March 13, 2012. Under Local Rule 7-3, any  
15 opposition or statement of non-opposition was due no later than two weeks after the motion  
16 was filed. As such, Plaintiff's response was due by November 11, 2011. To date, however,  
17 no response to the motion has been filed.

18 "Pursuant to Federal Rule of Civil Procedure 41(b), the district court may dismiss an  
19 action for failure to comply with any order of the court." Ferdik v. Bonzelet 963 F.2d  
20 1258, 1260 (9th Cir. 1992). As such, the failure to file an opposition to a motion to dismiss  
21 in the manner prescribed by the Court's Local Rules is grounds for dismissal. Ghazali v.  
22 Moran, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam). Nevertheless, the Court will sua sponte  
23 afford Plaintiff an additional opportunity to file a response to Defendant's motion to  
24 dismiss. While the Court does not countenance Plaintiff's disregard of the Local Rules, the  
25 Court grants such extension in consideration of less drastic alternatives to dismissal. See  
26 Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002). Nonetheless, Plaintiff is warned  
27 that the failure to file an opposition by the deadline set by the Court will be deemed  
28 grounds for dismissing the action under Rule 41(b), without further notice. Accordingly,

1 IT IS HEREBY ORDERED THAT:

2 1. Plaintiff shall file his response to Defendant's motion to dismiss by no later  
3 than **February 16, 2012**. If Plaintiff does not intend to prosecute this action, he should file  
4 a stipulation for dismissal under Rule 41(b), a request for dismissal under Rule 41(a), or a  
5 statement of non-opposition, by that deadline. The failure timely comply with this Order  
6 will result in the dismissal of the action. If applicable, Defendant may file a reply by no  
7 later than **February 23, 2012**.

8 2. Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-  
9 1(b), the Court, in its discretion, may resolve the motion without oral argument, prior to the  
10 new hearing date. The parties are advised to check the Court's website to determine  
11 whether a court appearance is required.

12 IT IS SO ORDERED.

13 Dated: February 2, 2012

  
14 SAUNDRA BROWN ARMSTRONG  
United States District Judge

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